PROCEEDINGS OF THE COMMON COUNCIL
IN REGULAR SESSION
TUESDAY, MARCH 22, 1994

CITY OF FORT WAYNE, INDIANA
JOURNAL OF THE PROCEEDINGS
OF THE COMMON COUNCIL

THE COMMON COUNCIL OF THE CITY OF FORT WAYNE MET IN THE COUNCIL CHAMBERS Tuesday EVENING March 22, 1994, IN Regular SESSION. PRESIDENT Donald J. Schmidt IN THE CHAIR, COUNCIL ATTORNEY Stanley A. Levine, AND Sandra E. Kennedy CITY CLERK, AT THE DESK, PRESENT THE FOLLOWING MEMBERS VIZ:

BRADBURY Present, EDMONDS Present, GiaQUINTA Present,
HENRY Absent, LONG Present, LUNSEY Present,
RAVINE Present, SCHMIDT Present, TALARICO Present,

ABSENT: /

COUNCILMEMBER: Henry, ,
, ,

THE MINUTES OF THE LAST REGULAR March 8, 1994,
, 19,
SPECIAL, 19,

SESSION HAVING BEEN DELIVERED TO THE COUNCIL, WERE, ON MOTION, APPROVED AND PUBLISHED.

THE COUNCIL THEN ADJOURNED

CERTIFICATE

I hereby certify that I am the duly elected, acting and incumbent City Clerk of Fort Wayne, Indiana, and as such the custodian of the records of the Common Council of said City and that the above and foregoing is the true, full and complete record of the proceedings the Common Council of the City of Fort Wayne, Indiana, for its Regular Session, held on 22nd day of March, 1994, that the numbered ordinances and resolutions shown therein were duly adopted by said Common Council on said date and were presented by me to the Mayor of the City of Fort Wayne and were signed and approved or disapproved by said Mayor and on the dates shown as to each such ordinance and resolution respectively; and that all such records, proceedings, ordinances and resolutions remain on file and record in my office.

WITNESS my hand and the official seal of the City of Fort Wayne, Indiana, this 24th day of March, 1994.

Sandra E. Kennedy

City Clerk

The City of Fort Wayne

Paul Helmke, Mayor

March 1, 1994

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

Dear Councilmembers:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the vacation of portion of a dedicated utility easement.

The proposed ordinance is designated as:

Bill No. G-94-02-04

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
1st day of March 1994.

Carol Kettler Sharp

Carol Kettler Sharp
Secretary

/pb

CC: File

BICENTENNIAL FORT WAYNE 1794 — 1994

GCIU 552M

FACT SHEET

G-94-02-04
BILL NUMBER

Division of Community Development & Planning

BRIEF TITLE	APPROVAL DEADLINE	REASON
Utility Easement Vacation		

DETAILS

Specific Location and/or Address
South 2 feet of the North 7 foot utility easement on Lot 129 in the Village of Buckingham Section II

Reason for Project

Existing home foundation is encroaching into easement.

Discussion (Including relationship to other Council actions)

21 February 1994 - Public Hearing

Terry Stauffer, representing the petitioner, appeared before the Commission. Mr. Stauffer stated that this situation was brought about when the concrete subcontractor did not check the survey stakes properly and constructed the foundation approximately 6 inches into the utility easement. He stated that it was not discovered until they were staking it for the survey. He stated that they were requesting that this two feet be vacated in order to accommodate that error. He stated it will still leave 5 feet to the north as well as the 7 foot utility easement to the south of the lot.

There was no one else present who spoke in favor of or in opposition to the proposed vacation.

POSITIONS	RECOMMENDATIONS
Sponsor	City of Fort Wayne
Area Affected	City Wide Other Areas
Applicants/ Proponents	Applicant(s) Chris Stauffer Homes City Department Other
Opponents	Groups or Individuals Basis of Opposition
Staff Recommendation	[X] For [ ] Against Reason Against
Board or Commission Recommendation	By [X] For [ ] Against [ ] No Action Taken [ ] For with revisions to conditions (See Details column for conditions)
CITY COUNCIL ACTIONS (For Council use only)	[ ] Pass [ ] Other [ ] Pass (as amended) [ ] Hold [ ] Council Sub. [ ] Do not pass

ETAILS

28 February 1994 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation, contingent upon the petitioner providing replacement of utility easements or relocations.

Of the seven (7) members present, six (6) voted in favor of the motion, one (1) did not vote. Motion carried.

POLICY/PROGRAM IMPACT

Policy or Program Change	☐ No ☐ Yes
Operational Impact Assessment	

(This space for further discussion)

Project Start — Date 7 January 1994

Projected Completion or Occupancy — Date 1 March 1994

Fact Sheet Prepared by — Date 1 March 1994
Pat Biancaniello

Reviewed by — Date 8 March 1994

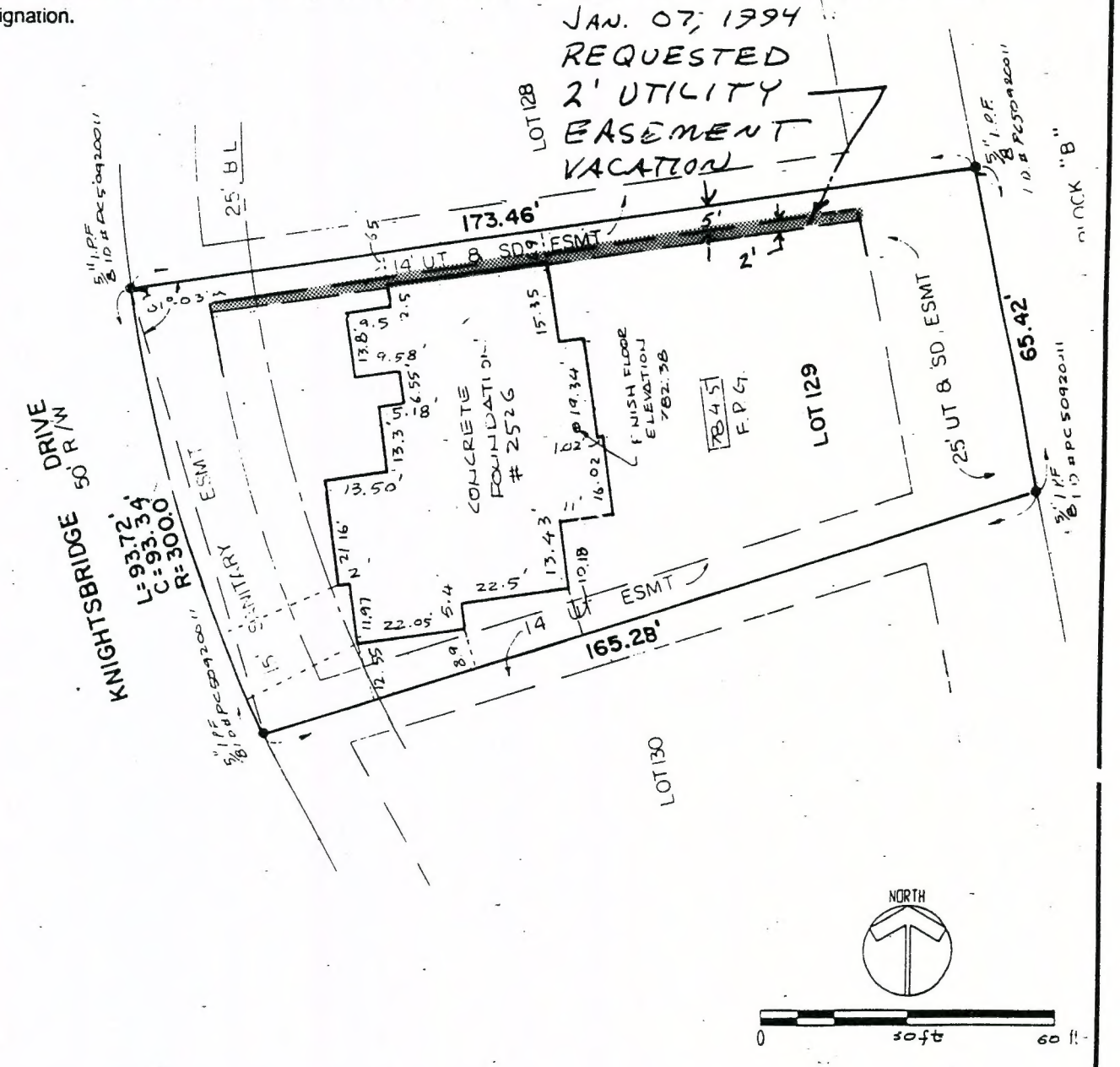
Reference or Case Number

VACATION PETITION

AREA MAP

CASE NO. #556

Lot # 129 in **THE VILLAGE OF BUCKINGHAM, SECTION II,** according to the plat thereof, recorded in Plat Cabinet B, page 180, in the Office of the Recorder of Allen County, Indiana.
FLOOD PLAIN NOTE: N.F.I.P. Flood Insurance Rate Map # 18003C0280 D, Panel # 280 of 475, effective September 28, 1990, shows the above described property in a Zone X (areas determined to be outside 500 year flood plain) designation.



COUNCILMANIC DISTRICT NO. **2**

Map No. U-18
LW 1-24-94

R1	One-Family	**B1**	Limited Business	**M1**	Light Industrial
R2	Two-Family	**B2**	Planned Shopping Center	**M2**	General Industrial
R3	Multi-Family	**B3**	General Business	**M3**	Heavy Industrial
RA/RB	Residential	**B4**	Roadside Business	**MHP**	Mobile Home Park
PUD	Planned Unit Dev.	**POD**	Professional Office District		

Chris Stauffer Homes, agent for Left Guard Corporation, requests the vacation of a portion of a utility easement.

Location:	2526 Knightsbridge Drive		
Legal:	S 2' of the N 7' utility easement on Lot 129 in the Village of Buckingham Section II		
Land Area:	Less than .01 acres		
Zoning:	R-3		
Surroundings:	North	R-3	Residential
	South	R-3	Residential
	East	R-3	Residential
	West	R-3	Residential

Reason for Request: Encroachment

Neighborhood Assoc.: Village of Buckingham Community Assoc.

Neighborhood Plan: No comment.

Comprehensive Plan: No comment.

Landscape: No comment.

Planning Staff Discussion:

A new home was recently started on this lot. Inadvertently the house was constructed approximately six (6) inches over the north easement. The petitioners believe that the utility easement along the south property line will adequately serve the utility needs of the subdivision, and that the two (2) foot vacation will not adversely affect any lot or utility.

This is a new subdivision that has only recently started developmental activity. This area is a blend of traditional single family and villa-minium style units. The developer previously petitioned for and received a waiver reducing the side yard requirement to seven (7) feet. There are utility easements on both sides of this lot, which could potentially serve the needs of the utilities.

Recommendation: Conditional Approval, contingent upon the petitioner providing replacement utility easements or relocations, and for the following reasons:

1) Approval will not have an adverse impact on any other property owner.

2) There is a utility easement on both sides of the lot that could potentially satisfy the needs of the outside utilities.

RESOLUTION

WHEREAS, LEFT GUARD CORPORATION has petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of the following dedicated utility easement situated in Fort Wayne, Allen County, to-wit:

> The south 2.0 feet of the north 7.00 foot utility easement on Lot #129 in the Village of Buckingham, Section II as recorded in Plat Cabinet B, page 180, in the Allen County Recorder's Office.

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of the General Assembly of the State of Indiana, Indiana Code Section 36-7-4-12; and,

WHEREAS, notice of such public hearing has been given by due and proper publication thereof;

WHEREAS, said public hearing was held on February 21, 1994 at 7:00 P.M. and at such hearing there were no objections of any kind or character which should prevent the vacation of said dedicated utility easement.

WHEREAS, said vacation of dedicated utility easement has been routed through the following departments: Street Engineering, Traffic Engineering, Water Engineering, Water Pollution Control Engineering, Street Light Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne City Plan Commission that the vacation of said dedicated utility easement hereinbefore described conforms to the general policy pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana;

BE IT FURTHER RESOLVED by the Fort Wayne City Plan Commission that the vacation of said dedicated utility easement hereinbefore described be and the same is hereby approved.

BE IT FURTHER RESOLVED no public utility occupying and using said dedicated utility easement or part thereof for the vacation and operation of its utility facilities shall be deprived of said use on account of these proceedings unless any said utility shall file a written consent to said vacation.

BE IT FURTHER RESOLVED that the action of the Fort Wayne City Plan Commission be forwarded to the proper governing body having jurisdiction of the vacation of said dedicated utility easement in Allen County, Indiana.

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

I, Carol Kettler Sharp, Secretary of the Fort Wayne City Plan Commission, do hereby certify that attached is a full true and correct copy of a resolution adopted by the Fort Wayne City Plan Commission following a public hearing of said Commission held, February 28, 1994 and as the same appears of record in the official records of said Plan Commission.

DATED THIS 1st DAY OF March 1994

FORT WAYNE CITY PLAN COMMISSION

Carol Kettler Sharp

Carol Kettler Sharp
Secretary

RESOLUTION 81-27-9

WHEREAS, LEFT GUARD CORPORATION has petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of the following dedicated utility easement situated in Fort Wayne, Allen County, to-wit:

> The south 2.0 feet of the north 7.00 foot utility easement on Lot #129 in the Village of Buckingham, Section II as recorded in Plat Cabinet B, page 180, in the Allen County Recorder's Office.

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of the General Assembly of the State of Indiana, Indiana Code Section 36-7-4-12; and,

WHEREAS, notice of such public hearing has been given by due and proper publication thereof;

WHEREAS, said vacation of dedicated utility easement has been routed through the following departments: Street Engineering, Traffic Engineering, Water Pollution Control Engineering, Electrical Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne Board of Public Works that the vacation of said dedicated utility easement hereinbefore described conforms to the general policy and pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana.

BE IT FURTHER RESOLVED by the Board of Public Works that the vacation of said dedicated utility easement hereinbefore described be and the same is hereby approved subject to easements as required by all public utilities occupying and using said portion of dedicated utility easement or part thereof for the vacation and operation of its utility facilities shall not be deprived of said use on account of these proceedings unless any said utilities shall file a written consent to said vacation.

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

I, CHARLES E. LAYTON, Director of the Board of Public Works, do hereby certify that attached hereto is a full, true and correct copy of a resolution adopted by the Fort Wayne Board of Public Works at their meeting held MARCH 2 1994 and as same appears of record in the official records of the Board of Public Works.

DATED THIS 2 DAY OF MARCH 1994

FORT WAYNE BOARD OF PUBLIC WORKS

Charles E. Layton
Director of Public Works

Katherine A. Carrier
Member, Board of Public Works

C. James Owen
Member, Board of Public Works